

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:14 CR 40-1**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
JUSTIN M. BREEDLOVE,)	
)	
Defendant.)	
)	

THIS CAUSE came on to be heard before the undersigned upon a Violation Report (#19) and an Addendum to Violation Report (#22) filed by the United States Probation Office alleging that the Defendant has violated terms and conditions of his presentence release. At the call of this matter on for hearing it appeared Defendant was present with his counsel, Fredilyn Sison, and the Government was present through Assistant United States Attorney, Don Gast. From the evidence offered and from the statements of the Assistant United States Attorney and the attorney for Defendant, and the records in this cause, the Court makes the following findings.

Findings: At the call of the matter, the Defendant, by and through his attorney, admitted the allegations contained in the Violation Report and the Addendum to Violation Report.

The Defendant was charged in a bill of indictment (#1) filed on June 3, 2014 with the crime of being a postal employee did attempt to embezzle mail and articles that had been entrusted to him as a part of his employment with the United States Postal Service, in violation of 18 U.S.C. § 1709. At the initial appearance hearing of the Defendant, an Order was entered by the undersigned releasing Defendant on terms and conditions of pretrial release (#4). The undersigned further set conditions of release which included the following:

- (1) The defendant must not violate any federal, state or local law while on release;
- (8)(p) refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. §802, unless prescribed by a licensed medical practitioner.

On July 17, 2014, Defendant was issued a citation in Buncombe County, North Carolina charging him with operating a vehicle with an expired registration. On July 22, 2014, Defendant was charged in a citation with driving while license revoked and operating a vehicle with an expired registration in Haywood County, North Carolina.

Defendant admitted to his U.S. Probation Officer that on July 4, 2014, Defendant had used marijuana and on August 29, 2014 Defendant submitted to an

urinalysis which tested positive for Defendant's use of marijuana.

Discussion. 18 U.S.C. § 3148(b)(1) provides as follows: The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer -----

(1) finds that there is----

(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

(B) clear and convincing evidence that the person has violated any other condition of release; and

(2) finds that ---

(A) based on the factors set forth in section 3142(g) of this title, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community.

Based upon the evidence, the undersigned finds there is probable cause to believe that the Defendant has committed state crimes while on release. Those crimes being two counts of operating a vehicle with expired registration and one count of driving while license revoked.

There has further been shown by clear and convincing evidence that Defendant violated the condition of release that required Defendant to refrain from

use or unlawful possession of a narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner in that Defendant admitted he had used marijuana on July 4, 2014 and the Defendant tested positive for the use of marijuana on August 29, 2014.

Due to the findings made above and considering the factors as set forth under 18 U.S.C. § 3142(g), it appears there is no condition or combination of conditions of release that will assure that Defendant will not pose a danger to the safety of any other person or the community. It is the opinion of the undersigned, that based upon Defendant's actions, it is unlikely that Defendant will abide by any condition or combination of conditions of release.

As a result of the above referenced findings, the undersigned has determined to enter an order revoking the unsecured bond and the terms of pretrial release previously issued in this matter and entering an order detaining Defendant.

ORDER

IT IS, THEREFORE, ORDERED that the unsecured bond and terms and conditions of pretrial release entered in this matter are hereby **REVOKE**D and it is **ORDERED** that Defendant be detained pending sentencing and further proceedings in this matter.

Signed: September 8, 2014

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

